

REMARKS/ARGUMENTS

Claims 6-8 and 14-18 are pending in the present application. Claims 6, 7, 14-16 and 18 have been amended, and Claims 1-5, 9-13 and 19-22 have been cancelled, herewith.

Applicants are not conceding in this application that these Claims 6-8 and 14-18, prior to their being amended herewith, are not patentable over the cited art provided by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the pending claims. Applicants respectfully reserve the right to pursue these and other claims, including the ones being cancelled herewith, in one or more continuation and/or divisional patent applications.

I. Objection to Claims

Claim 14 was objected to because of a minor informality. Applicants have amended Claim 14 to eliminate the objectionable language.

Therefore, the objection to the claims has been overcome.

II. 35 U.S.C. § 103, Obviousness

Claims 1, 3-5, 6-8, 10, 12-17 and 19-21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Elliott, U.S. Patent No. 6,366,220. This rejection is respectfully traversed.

Claims 1, 3-5, 10, 12, 13 and 19-21 have been cancelled herewith, without prejudice or disclaimer, such that this case can expeditiously pass to issuance.

Generally speaking, the features per amended Claim 6 advantageously provide improvements over the teachings/suggestions of the cited Elliott reference – and in particular, such features advantageously provide *a user-portable smart card with dining preferences stored therein that are interoperable between a multitude of different restaurants using a single card* (i.e. “multi-vendor interchange”), as described at Specification page 14, lines 3-15 et seq. In contrast, per the teachings of the cited Elliott reference, and directly tied to the overall architecture provided by the Elliott teachings, the so-called ‘default menu’ for placing an order is only with respect to a *given restaurant* (and thus is not interoperable between a multitude of different and unrelated restaurants). This is required by the teachings of Elliott since the RFID tag that is used to facilitate customer food orders *only has RFID tag identification information* that can be read from such RFID tag (col. 1, lines 19-20, lines 51-58; col. 5, lines 27-35). This RFID tag identifier is read and used to look-up a given account from a different system in order to query a customer account (col. 1, lines 20-35; col. 3, lines 41-45). It is not possible to store any type of dining preferences for a customer in such an RFID tag. In addition, because the tag identifier

is used to identify a customer, which is either (i) used locally in conjunction with a particular vendor-specific database (col. 5, lines 28-30) and thus the restaurant is already implicitly known by physical proximity, or (ii) transmitted by the food vendor themselves to a tag-vendor for processing (col. 5, lines 64 – col. 6, line 15) and thus the restaurant is known by the food-vendor/tag-vendor link, there would be no need or reason to include particular restaurant identification capabilities within a card or tag itself in the Elliott described system. Claim 6 expressly recites that restaurant identification is stored in the smart card itself.

While Elliott also nominally mentions use of an active RFID in other, different applications, this tag description does not provide any type of multi-vendor interchange capabilities with respect to restaurants or customer food preferences. Instead, the active RFID tag is described as being used in complex applications such as maintaining maintenance information for the automobile for which such tag is affixed to. Due to the *direct linkage* between the item (automobile) that the RFID tag is affixed to and the particular information stored therein (maintenance information for this same automobile), a person would not have been motivated to modify this description in accordance with the above described missing claimed features, as the advantages provided by this direct linkage and device affixation would be lost.

In addition, Elliot explicitly states a strong desire to provide a conglomerated database that maintains customer account information, including menu preferences of such customers (col. 5, lines 24-40). This central data storage, which is not accessible by an end user but instead is controlled by the restaurant/food vendor themselves, is desired to further facilitate related ongoing business operations by the food vendor, including ordering supplies, computing budgets, tracking customer preferences and creating sales promotions (Elliott col. 6, lines 31-36). Thus, there would have been no reason or desire for a person of ordinary skill in the art, when presented with the Elliott teachings, to somehow re-architect the entire Elliott system to provide a de-centralized system where customer food preferences are distributed to or maintained by each customer individually, due to the desire for having a conglomerate customer database with associated customer account information consolidated together under a central control.

Thus, a person of ordinary skill in the art would not have been motivated to modify such teachings in accordance with the missing claimed features recited in Claim 1, which are (1) reading customer dining preferences for the restaurant from a memory in the smart card, *wherein the memory includes dining preferences for food items for a set of different and unrelated restaurants, wherein the dining preferences (i) are customer-portable between the set of different and unrelated restaurants, (ii) are read from the smart card using radio frequency signals, and (iii) are stored in association with a restaurant name and a food item name also stored in the smart card;* (2) displaying the dining preferences for the restaurant on a display for *order verification by both the employee and the customer,* wherein

other dining preferences maintained in the smart card for other restaurants are not displayed; and (3) a smart card that comprises a communications interface, wherein the communications interface allows for the dining preferences to be read from the memory by a data processing system at the restaurant for use in generating the food order, wherein the communications interface is a radio frequency transceiver that uses the radio frequency signals to read the restaurant dining preferences from the smart card and write the restaurant dining preferences to the smart card.

Thus, it is urged that the present amendment to Claim 6 has overcome the present rejection of Claim 6 under 35 U.S.C. § 103.

Applicants initially traverse the rejection of Claim 7, 8 and 14 for reasons given above with respect to Claim 6 (of which Claim 14 depends upon).

Further with respect to Claim 14, such claim recites that the dining preferences are generated by a terminal at the restaurant, which further enhances the multi-vendor interchange capabilities provided by the presently claimed features, as dining preferences can be set at the restaurants themselves. The customer would also have access to restaurant employees and menus to further facilitate the programming of the smart card with their dining preferences, further enhancing use of the smart card. Again, because of the overall architecture provided by the teachings of the cited reference, such localized programming is not provided in their desired low-cost (i.e. re-use of a preexisting RFID tag already on the automobile) techniques in a fast-food restaurant environment. Thus, it is further urged that Claim 14 is not obvious in view of the cited reference.

Applicants traverse the rejection of Claims 15-17 for similar reasons to those given above with respect to Claim 6.

Applicants further traverse the rejection of Claim 16 for similar reasons to the further reasons given above with respect to Claim 14.

Therefore, the rejection of Claims 1, 3-5, 6-8, 10, 12-17 and 19-21 under 35 U.S.C. § 103 has been overcome.

III. 35 U.S.C. § 103, Obviousness

Claims 2, 9, 18 and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Elliott, U.S. Patent No. 6,366,220 in view of Page et al., U.S. Patent No. 6,801,787. This rejection is respectfully traversed.

Applicants have cancelled such claims herewith, without prejudice or disclaimer, such that this case can expeditiously pass to issuance.

Therefore, the rejection of Claims 2, 9, 18 and 22 under 35 U.S.C. § 103 has been overcome.

IV. 35 U.S.C. § 103, Obviousness

Claim 11 stands rejected under 35 U.S.C. § 103 as being unpatentable over Elliott, U.S. Patent No. 6,366,220 in view of Shaw, Jr. et al., U.S. Patent No. 6,755,345. This rejection is respectfully traversed.

Applicants have cancelled such claims herewith, without prejudice or disclaimer, such that this case can expeditiously pass to issuance.

Therefore, the rejection of Claim 11 under 35 U.S.C. § 103 has been overcome.

V. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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